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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,613	01/15/2004	Ruupak Nanyamka Omar	0103281/0515640	6346

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EXAMINER	
LOWEN, ALYSSA	

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/758,613	OMAR, RUUPAK NANYAMKA	
	Examiner	Art Unit	
	Alyssa M. Lowen	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *27 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *22-43* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *22-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 February 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings were received on 2/27/06. These drawings are acceptable.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 22-27, 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cash (6517406), Kimbrough (5926388) and Wolf (6655056). Cash discloses a sports novelty article having a three-dimensional representation of a baseball with a face (48) positioned on the ball such that the ball continues from the face to form the remainder of the head (Fig. 1). The relative size of the representation of the ball and the representation of the face is such that the ball is generally the size of the representation of the head (Fig. 1). The three-dimensional representation of the ball is proportional to the represented ball (Fig. 1). The novelty article is a figurine with arms and legs (14,16) wherein the combination of the three-dimensional representation of the ball and the face is selectively attachable to the figurine (Fig. 2). Kimbrough discloses disposing a three-dimensional face of a known person onto a doll or other object (Figs. 3 & 4), which can include a famous athlete. The three-dimensional face has a continuous facial surface extending beyond the surface to which it is applied (Fig. 3). The continuous facial surface extends beyond an objects surface at a continuous

perimeter, which defines the boundary of the continuous facial surface relative to the objects surface (Fig. 3). The three-dimensional representation of the face is proportional to the represented face of the person (column 2 lines 15-20). The three-dimensional representation of the face is created using a three-dimensional digital model of the face obtained by scanning the face of the person (abstract). It would have been obvious to one of ordinary skill in the art to have the face of Cash replaced with a three-dimensional representation of a face as disclosed by Kimbrough in order to have a doll with more realistic looking features of an actual person. The two references do not expressly disclose the representation of the face being that of a famous athlete, however it is well known in the doll art to have the face of a doll resembling a famous person, athlete or celebrity, as such it would have been obvious to include this feature to increase the amusement value of the toy since it would be in a form that was well known and easily recognizable to a child. The two references disclose the basic inventive concept substantially as claimed with the exception of a stand. Wolf discloses a stand configured to be a three-dimensional representation of a venue such as a stadium associated with a sport such as baseball (Fig. 1) that is used to hold sports memorabilia such as a ball (column 4 lines 9-19) which would allow for the three-dimensional representation of the ball and the three-dimensional representation of the face to fit on the stand (Fig. 3). The stand is configured to hold only one ball shaped piece of memorabilia (Fig. 3). It would have been obvious to one of ordinary skill in the art from the teaching of Wolf to display the sports novelty on a stand associated with the

sport of the novelty in order to create an attractive and functional display for sports collectibles.

4. Claims 28 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cash, Kimbrough, Wolf and Lerner (3660926). The device of Cash, Kimbrough and Wolf discloses the basic inventive concept, substantially as claimed with the exception of the three-dimensional representation of the ball and face being partially hollow. Lerner however, discloses a toy figurine where the head portion is hollow for storing the elements of the figurine within (Fig. 2). It would have been obvious to one of ordinary skill in the art from the teaching of Lerner to have the head portion be hollow in order to allow for elements to be stored within.

5. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cash, Kimbrough and Wolf. The references disclose the basic inventive concept, substantially as claimed with the exception of the figurine arms and legs having joints shaped like sports balls. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to give the figurine ball shaped joints because Applicant has not disclosed that the ball shaped joints provide an advantage, are used for a particular purpose, or solve a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well without joints because a simpler yet still fun and interesting toy with arms and legs is created.

6. Regarding claims 33-34, official notice is taken that it is well known in the doll art to use voice signal technology, as such it would have been obvious to include this feature to create a more interesting and interactive toy.

7. Regarding claim 35 the above references do not disclose the face of the athlete being a caricature. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the face be a caricature because Applicant has not disclosed that a caricature provides an advantage, is used for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the standard facial features because it would be more easily recognizable.

8. Regarding claim 36 the above references do not disclose the ball and face combination being fixedly secured to the stand. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the ball and face combination fixedly secured to the stand because Applicant has not disclosed that the novelty being fixedly secured provides an advantage, is used for a particular purpose or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the ball and face combination being removable from the stand because it would allow the child to play with the ball once removed.

9. Claims 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cash and Kimbrough. Cash discloses a novelty toy doll having a face attached to a baseball (Fig. 1). Kimbrough discloses a novelty article having a three-dimensional

representation of the face of a person which could include a famous person such as an athlete, wherein the three-dimensional representation of the face of the famous person is defined by a continuous facial surface, wherein the continuous facial surface comprises a three-dimensional representation of the eyes, nose and mouth of the person (Fig. 1). The three-dimensional representation of the face of the famous person is generally proportional to the face of the famous person (column 2 lines 15-20). A three-dimensional representation of an article has a continuous article surface, wherein the three-dimensional representation of the article is generally proportional to the article (Fig. 3). The continuous facial surface is integral with the continuous article surface such that the three-dimensional representation of the article continues from the three-dimensional representation of the face of the famous person to form the remainder of the head of the famous person, wherein the continuous facial surface extends beyond the continuous article surface (Fig. 3). The three-dimensional face has a continuous facial surface extending beyond the surface to which it is applied (Fig. 3). The continuous facial surface extends beyond an objects surface at a continuous perimeter, which defines the boundary of the continuous facial surface relative to the objects surface (Fig. 3). It would have been obvious to one of ordinary skill in the art to attach the facial characteristics as described by Kimbrough to an article of fame such as a baseball as disclosed by Cash to create a toy doll with more realistic facial characteristics of actual people.

10. Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cash, Kimbrough and Lerner. Cash discloses a novelty toy doll having a face attached

to a baseball (Fig. 1). The three-dimensional representation of the head of the doll is proportionate to the three-dimensional representation of the body (Fig. 1). Kimbrough discloses a novelty article having a three-dimensional representation of the face of a person who can be famous defined by a continuous facial surface and a three-dimensional representation of an article integral with the continuous facial surface (Fig. 3). The three-dimensional representation of the article continues from the three-dimensional representation of the face of the famous person to form the remainder of the head of the famous person (Fig. 3). The combination of the three-dimensional representation of the face of the famous person and the three-dimensional representation of the article has a hollow portion (Fig. 3). It would have been obvious to one of ordinary skill in the art to attach the facial characteristics as described by Kimbrough to an article of fame such as a baseball as disclosed by Cash to create a toy doll with more realistic facial characteristics. Lerner discloses a toy having a three-dimensional representation of the body of a person that is configured to fit within a hollow portion of a head (Fig. 2). The three-dimensional representation of the body is disproportionate to the three-dimensional representation of the face (Fig. 1). It would have been obvious to one of ordinary skill in the art from the teaching of Lerner to have the head portion be hollow in order to allow for elements to be stored within so they will not become lost when not in use.

Response to Arguments

11. Applicant's arguments with respect to claims 22-43 have been considered but are moot in view of the new ground(s) of rejection.

12. Examiner notes that since no argument was raised with regard to the use of voice signal technology in a doll and the facial features of a doll resembling that of a famous person, athlete or celebrity, that these features are therefore established as being well known and obvious in the art.

13. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AML

EUGENE KIM
SUPERVISORY PATENT EXAMINER